

I am strongly against any technology that gives content producers arbitrary control over what I do with the content I've legally paid for.

Hollywood, apparently not content with the billions of dollars they already make, are trying to gain total, absolute control over how people use their products -- and are willing to trample established "Fair Use" rights in the process.

As a consumer, I pay for the content I receive -- either through broadcast TV (by watching commercials), or through cable or satellite (by paying a big company a monthly fee). I also pay for the DVDs I own. In all cases, I have certain rights for how I use that material. I can record it to watch later. I can keep a copy for personal use of a big game, or of a newscast featuring a family friend, or of a favorite movie not available for purchase. I can record something downstairs and watch it later in the bedroom. I can loan last week's episode of "Everybody Loves Raymond" to someone who missed it.

All these are rights that consumers have grown accustomed to. All these rights are threatened if the FCC requires manufacturers to cave to Hollywood's wishes in implementing "Broadcast Flag" technology.

Hollywood claims to be concerned about "Digital Piracy" -- about people making "near perfect" copies of their shows and selling them on street corners. They claim that implementing something like the proposed Broadcast Flag can put a stop to that, and rescue their industry from near-certain oblivion. Unless Hollywood has complete control over how VCRs operate, they claim, all their shows will be traded on the Internet minutes after broadcast, and they'll all go out of business.

But these arguments are disingenuous.

The industry is not in any way threatened with extinction by the actions of a few file traders. They make billions of dollars every year, and are blaming the sub-culture of online and DVD-based show trading for recent losses that could be more easily explained by the slowing economy, post 9/11 shifts in priority, and even simply a "down cycle" in a fairly volatile industry.

Hollywood knows that the biggest threats to illegal copying and sales of music, TV, and movies, comes not from individual consumers but from professional pirates. They know that these pirates won't have any difficulty at all in finding gray-market systems that do not honor the controls they're proposing, or that they'll simply buy non-hindered professional equipment. Many movies that make it to the Internet ahead of theatrical release came from insiders making copies of the film on the studios' own equipment. So this is not about piracy, it's not about theft of content. Hollywood knows that no matter how tightly they control the images and sounds within people's homes, professional lawbreakers with bigger resources will break the content free of the controls and start selling it on New York street corners. What's it all about, then?

It's about how we watch shows in the first place. Hollywood media companies have sued some of the newest, most innovative companies, to attempt to quash technologies that consumers are demanding. They've sued ReplayTV to stop allowing consumers to fast-forward through commercials, because suddenly people aren't watching them. As if people didn't get up for a snack or bathroom break, or simply talk to each other already. They want to have the power to force manufacturers to take those features out – and since they've lost in the courts, they're now turning to the government to help bail them out.

But it's not the government's job to prop up their failing business model. It is the responsibility of the marketplace to help content creators to find a way to answer an obvious consumer demand – the desire to easily trade music, TV shows and movies for a little or no cost. The desire to pause a late-night show in the basement, then resume it in the bedroom. The desire to save a library of TV shows for future enjoyment. The desire to share that library with friends. The desire to skip over commercials, or, in the case of the Super Bowl, to skip over the game to watch the commercials. Technology, which is supposed to be improving our lives, offers a way to do all these things.

But Hollywood doesn't want this new world of consumer choice and freedom – they want control. They want to be able to tell their advertisers that people are watching their commercials, because they can't be skipped. That people are watching reruns, because nobody's got the show on tape. It's about more than making money – it's about making money the only way they know how, and not learning to make money in the new ways that the marketplace is demanding.

If Hollywood is successful in requiring manufactures to support and honor such a “Broadcast Flag,” then they could, entirely at their own whim and at any unannounced point in the future, send signals to make it so that people will be unable to record a show, to loan a tape to a friend, to watch a tape more than once, to watch a tape more than a month after recording, even to watch a tape recorded at home when they're on vacation.

This isn't even to mention the new ways of using technology that TiVo and ReplayTV have shown us – ideas that we'd never even thought of just a few short years ago that are catching on all over the country. A whole new industry, the Personal Video Recorder, that formed precisely because the content was there, and uncontrolled, would not exist if a Broadcast Flag were implemented.

The media companies may say that they won't use the technology to restrict Fair Use rights – but why should they be given the power, if they say they won't use it? We, as citizens, would never stand for the government exercising these sorts of controls over us. Why, then, should we permit the government to allow the media industry to force us to give up these rights, as consumers?